

## § 701.50

shall notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payments, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment.

(d) Advance payment of a fee is also applicable when a requester has previously failed to pay fees in a timely fashion (i.e., 30 calendar days) after being assessed in writing by the activity. Further, where a requester has previously failed to pay a fee charged in a timely fashion (i.e., within 30 calendar days from the date of the billing), the DON activity may require the requester to pay the full amount owed, plus any applicable interest, or demonstrate that he or she has paid the fee, and to make an advance payment of the full amount of the estimated fee before the activity begins to process a new or pending request from the requester. Interest will be at the rate prescribed in 31 U.S.C. 3717 and confirmed with respective finance and accounting offices.

## § 701.50 Effect of the Debt Collection Act of 1982.

The Debt Collection Act of 1982 (Pub. L. 97-365) provides for a minimum annual rate of interest to be charged on overdue debts owed the Federal Government. DON activities may levy this interest penalty for any fees that remain outstanding 30 calendar days from the date of billing (the first demand notice) to the requester of the amount owed. The interest rate shall be as prescribed in 31 U.S.C. 3717. DON activities should verify the current interest rate with respective finance and accounting offices. After one demand letter has been sent and 30 calendar days have lapsed with no payment, DON activities may submit the debt to respective finance and accounting offices for collection.

## § 701.51 Refunds.

In the event that a DON activity discovers that it has overcharged a requester or a requester has overpaid, the DON activity shall promptly refund the charge to the requester by reimburse-

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ment methods that are agreeable to the requester and the activity.

## § 701.52 Computation of fees.

(a) It is imperative that DON activities compute all fees to ensure accurate reporting in the Annual FOIA Report, but ensure that only applicable fees be charged to the requester. For example, although we calculate correspondence and preparation costs, these fees are not recoupable from the requester.

(b) DD 2086, Record of Freedom of Information (FOI) Processing Cost, should be filled out accurately to reflect all processing costs, as requesters may solicit a copy of that document to ensure accurate computation of fees. Costs shall be computed on time actually spent. Neither time-based nor dollar-based minimum charges for search, review and duplication are authorized.

## § 701.53 FOIA fee schedule.

The following fee schedule shall be used to compute the search, review (in the case of commercial requesters) and duplication costs associated with processing a given FOIA request. The appropriate fee category of the requester shall be applied before computing fees.

(a) Manual search.

Type	Grade	Hourly rate
Clerical .....	E9/GS8 and below .....	\$12.00
Professional .....	O1-O6/GS9-GS15 .....	25.00
Executive .....	O7/GS16/ES1 and above	45.00

(b) *Computer search.* Fee assessments for computer search consist of two parts; individual time (hereafter referred to as human time) and machine time.

(1) *Human time.* Human time is all the time spent by humans performing the necessary tasks to prepare the job for a machine to execute the run command. If execution of a run requires monitoring by a human, that human time may be also assessed as computer search. The terms "programmer/operator" shall not be limited to the traditional programmers or operators. Rather, the terms shall be interpreted in their broadest sense to incorporate any human involved in performing the

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computer job (e.g. technician, administrative support, operator, programmer, database administrator, or action officer).

(2) *Machine time.* Machine time involves only direct costs of the central processing unit (CPU), input/output devices, and memory capacity used in the actual computer configuration. Only this CPU rate shall be charged. No other machine-related costs shall be charged. In situations where the capability does not exist to calculate CPU time, no machine costs can be passed on to the requester. When CPU calculations are not available, only human time costs shall be assessed to requesters. Should DON activities lease computers, the services charged by the lessor shall not be passed to the requester under the FOIA.

(c) Duplication.

Type	Cost per page
Pre-Printed material .....	\$ .02
Office copy .....	.15
Microfiche .....	.25
Computer copies (tapes, discs or printouts).	Actual cost of duplicating the tape, disc or printout (includes operator's time and cost of the medium).

(d) *Review time (in the case of commercial requesters, only).*

Type	Grade	Hourly rate
Clerical .....	E9/GS8 and below .....	\$12.00
Professional .....	O1-O6/GS9-GS15 .....	25.00
Executive .....	O7/GS16/ES1 and above	45.00

(e) *Audiovisual documentary materials.* Search costs are computed as for any other record. Duplication cost is the actual direct cost of reproducing the material, including the wage of the person doing the work. Audiovisual materials provided to a requester need not be in reproducible format or quality.

(f) *Other records.* Direct search and duplication cost for any record not described in this section shall be computed in the manner described for audiovisual documentary material.

(g) *Costs for special services.* Complying with requests for special services is at the discretion of the DON activity. Neither the FOIA nor its fee structure cover these kinds of services.

Therefore, DON activities may recover the costs of special services requested by the requester after agreement has been obtained in writing from the requester to pay for such fees as certifying that records are true copies, sending records by special methods such as express mail, etc.

### § 701.54 Collection of fees and fee rates for technical data.

(a) Technical data, other than technical data that discloses critical technology with military or space application, if required to be released under the FOIA, shall be released after the person requesting such technical data pays all reasonable costs attributed to search, duplication and review of the records to be released. Technical data, as used in this section, means recorded information, regardless of the form or method of the recording of a scientific or technical nature (including computer software documentation). This term does not include computer software, or data incidental to contract administration, such as financial and/or management information.

(b) DON activities shall retain the amounts received by such a release, and it shall be merged with and available for the same purpose and the same time period as the appropriation from which the costs were incurred in complying with request. All reasonable costs as used in this sense are the full costs to the Federal Government of rendering the service, or fair market value of the service, whichever is higher. Fair market value shall be determined in accordance with commercial rates in the local geographical area. In the absence of a known market value, charges shall be based on recovery of full costs to the Federal Government. The full costs shall include all direct and indirect costs to conduct the search and to duplicate the records responsive to the request. This cost is to be differentiated from the direct costs allowable under information released under FOIA.

(c) Waiver. DON activities shall waive the payment of costs required in paragraph (a) of this section which are greater than the costs that would be required for release of this same information under the FOIA if: